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IN THE COURT OF COMMON PLEAS
PHILADELPHIA COUNTY, PENNSYLVANIA

* * *

FRANKLYN PRILLERMAN, : CIVIL ACTION
Plaintiff :
 :
vs. :
 :
CITY OF PHILADELPHIA, et al., :
Defendants : NO. 13-1414

* * *

Oral deposition of FRANKLYN PRILLERMAN,
taken at CITY OF PHILADELPHIA LAW DEPARTMENT, 1515
Arch Street, 14th Floor, Philadelphia, Pennsylvania,
19102, beginning at 10:05 a.m., on Wednesday,
January 20, 2016, before Karen A. Stevens, Court
Reporter and Notary Public, there being present:

* * *

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APPEARANCES:

FRANKLYN PRILLERMAN
123 East Pomona Street
Philadelphia, Pennsylvania 19144
-- Pro Se

KRISTEN M. DAVIS, ESQUIRE
CITY OF PHILADELPHIA LAW DEPARTMENT
1515 Arch Street, 14th Floor
Philadelphia, Pennsylvania 19102
-- Representing the Defendants

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A Okay.

Q Any answer that you give, it will be assumed that you heard the question and understood the question. Okay?

A Okay.

Q If you need a break or anything it's totally fine. Just let me know. Try not to talk when I'm talking, so that she can write down everything that we are saying.

A Sure.

Q Try not to assume the question I'm going to ask.

A Right.

Q Just so we can make sure that everything is being transcribed properly. Okay?

A Sure.

Q Last thing is all of your responses need to be verbal; yes, no.

A Sure.

Q No head nodding or shrugging of your shoulders. Okay?

A Sure.

Q Mr. Prillerman, can you tell me about --

A I have one question.

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(It is hereby stipulated by and between the respective parties that sealing, filing and certification are waived; and that all objections, except as to the form of the questions, be reserved until the time of trial.)

FRANKLYN PRILLERMAN,
after having been first duly sworn, was
examined and testified as follows:

EXAMINATION

BY MS. DAVIS:

Q Mr. Prillerman, have you ever had your deposition taken before?

A No.

Q Okay. Just a couple of kind of instructions to start with. You know you're under oath?

A Yes.

Q So everything you say has to be the truth. If there is any question that you don't understand or you didn't hear, please let me know. Okay?

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Q Okay.

A Are we stipulating that the only objections will be to form and all other objections are preserved for trial?

Q Correct.

A Okay. I just want to be clear on that.

Q Okay. So can you tell me about your education level? How far did you go in school?

A I have a terminal degree from University of Pennsylvania in Higher Ed Administration.

Q When did you graduate from Penn?

A 2008.

Q Are you married?

A No.

Q Any children?

A One son.

Q How old is your son?

A My son is 46.

Q What does he do?

A He is a director of IT at a firm that I don't know the name of in Murrieta, California.

Q How old are you, Mr. Prillerman?

A I'm 66. Well, 65. I'll be 66 in April.

Q Tell me about your work experience. What

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1 have you done? Kind of what was your career or what
2 did you do?

3 A I would say primarily a split between
4 insurance and education. I was a home office
5 underwriter for Prudential, actuary analyst for
6 Towers Perin, I taught high school.

7 Q How long do you do insurance?

8 A I did insurance for about five years.

9 Q When was that?

10 A In the '80s. Maybe '80 to '85, something
11 like that.

12 Q Okay. And then when were you teaching
13 high school?

14 A I taught high school in Philadelphia,
15 again in the mid '80s, and in New York in the mid
16 '80s. I stopped teaching high school in '88, so I
17 guess about three years altogether.

18 Q What were you doing in the '90s and the
19 2000s?

20 A In the '90s I was working -- well, I was
21 incarcerated from 1990 to 1995 -- no, '97. 1992 to
22 1997.

23 Q What did you do when you got out?

24 A When I got out I pursued a Master's degree

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1 Q Where is that?

2 A North Jersey. It's like right across the
3 bridge.

4 Q Okay. What other states have you lived
5 in?

6 A I've lived in Indiana and I've lived in
7 Michigan.

8 Q All right. So tell me about -- well, let
9 me ask you this first. How many times have you been
10 arrested?

11 A Arrested? Maybe six.

12 Q Six times?

13 A Yeah.

14 Q And do you remember what you were arrested
15 for for each time?

16 A Not every time. I remember the times that
17 I was convicted. I was arrested one time, the very
18 first time I think I was arrested, it was for a
19 homicide case that was thrown out due to police
20 misconduct.

21 Q What state was that in?

22 A That was in Pennsylvania, in Philadelphia.

23 Q Do you remember when that was?

24 A 1973.

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1 at Lincoln University and I worked various jobs.

2 Q Odd jobs or whatever you could kind of
3 find?

4 A Right.

5 Q No career path at that point? You weren't
6 a teacher for a while?

7 A Well, I was -- my degree from Lincoln is
8 in K through 12 school administration. At some
9 point, I'm trying to think of when it was, might
10 have been '98, I was an adjunct math professor for
11 the Art Institute of Philadelphia and then went
12 there full-time. I was taken on full-time.

13 Q So where do you live now?

14 A I live at 123 East Pomona Street.

15 Q What part of the city is that?

16 A Germantown.

17 Q Okay. How long have you lived in
18 Germantown?

19 A All my life. Well, I lived in Detroit for
20 a few years, I lived in Indianapolis a few years.
21 Other than that I've always lived in Germantown,
22 Mt. Airy.

23 Q Did you also live in New York?

24 A Yes. I lived in Teaneck.

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1 Q Go ahead. Just go through each one and
2 see what you can remember about it.

3 A Then I was arrested in 1975 for robbery.
4 That was in Philadelphia. Then I was arrested for
5 marijuana in Upper Dublin in 1990, and then I was
6 arrested for marijuana in Arkansas in 2010.

7 Q You said you were incarcerated from 1992
8 to 1997?

9 A Yes.

10 Q What were you incarcerated for?

11 A For the marijuana arrest in 1990.

12 Q You were incarcerated for five years for
13 marijuana?

14 A Yes.

15 Q Were you charged with selling marijuana?

16 A Yes.

17 Q And the robbery in '75, were you convicted
18 of that?

19 A Yes.

20 Q Was it a gunpoint robbery?

21 A Yes, it was.

22 Q When you were arrested in was it 2010?

23 A Wait. When you say it was at gunpoint, I
24 didn't have any weapons.

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1 Q Okay. But were you convicted of an F1
2 robbery?

3 A A first class felony armed robbery, yes.
4 Okay.

5 Q And then you said in 2010 -- when were you
6 arrested in Arkansas?

7 A 2010.

8 Q And was that for selling marijuana or for
9 possessing it?

10 A Just transporting.

11 Q So distributing?

12 A Yes, right.

13 Q We know from '92 to '97 you were
14 incarcerated. How long were you incarcerated from
15 the robbery from '75?

16 A From 1975 to 19 I guess 82, but I wasn't,
17 I mean, I wasn't in like prison the whole time. It
18 was the halfway house and all that kind of stuff.

19 Q Okay. Then so from '82, about '82, to
20 about '92 you were out of custody. Would that be
21 fair to say?

22 A Absolutely.

23 Q And then from '92 to '97 you were in
24 custody?

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1 Q Then after you pled guilty, let me ask
2 you, while you were waiting for your guilty plea
3 were you in custody in Arkansas?

4 A I was. I was in custody, well, I made
5 bail. I was only in custody in Arkansas for maybe
6 two weeks prior to the guilty plea.

7 Q And you stayed awaiting to address your
8 case in Arkansas, right?

9 A No. I came back to Philadelphia.

10 Q Okay.

11 A Then I would go return to Arkansas for
12 court dates.

13 Q Okay. So when you were placed on
14 probation you were allowed to come back to
15 Philadelphia?

16 A Yes, the interstate compact agreement.
17 That's what led to the fugitive from justice warrant
18 that was issued.

19 Q Go ahead and tell me about that.

20 A Here's what happened. Under the
21 interstate compact agreement my probation was
22 transferred to Philadelphia. I kind of
23 misunderstood the instructions from the probation
24 department in Arkansas and they told me that it

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1 A Right.

2 Q Then when was the next time you were
3 incarcerated? Was it from 2010 when you got
4 arrested for --

5 A 2010, yes.

6 Q What happened in that case? You were in
7 Arkansas. Do you remember what town in Arkansas?

8 A Lonoke.

9 Q Okay and --

10 A No. I was actually on the highway and the
11 police pulled me over and found marijuana in the
12 car. And I guess the closest town was Lonoke, I
13 guess, so that's where they took me to be processed
14 or whatever.

15 Q Would it be fair to say you were driving
16 through Arkansas? It's not like you were --

17 A Yeah, I was driving through, definitely
18 driving through.

19 Q And do you remember what your sentence --
20 well, first were you convicted of distributing or
21 whatever the charge was?

22 A I pled guilty.

23 Q What was your sentence?

24 A At that time it was probation.

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1 would take some time before the actual transfer to
2 the probation department in Philadelphia would
3 occur. And in the meantime I should continue to
4 report to them until I heard from Philadelphia.

5 Q Report to Arkansas?

6 A Report to Arkansas. So I was filing my
7 reports by mail and paying my fees, but as it turned
8 out the probation department from Philadelphia, and
9 my sister was living with me at the time, called my
10 house. I never received the call and my sister
11 didn't tell me about it until weeks later, and by
12 the time I heard about it I called the probation
13 people in Philadelphia. And I forget the woman's
14 name and she was saying, "Well, you're going to have
15 to come in here." I said, "No problem. When do you
16 want me to come?" So I called her back and she said
17 I'll call you and let you know. So I call her back
18 in about a week. I said, "Well, what's going on?"
19 In the meantime I had been calling the people in
20 Arkansas, but no one ever answered the phone at the
21 probation department.

22 So when I talked to the woman from
23 probation here in Philadelphia the second time she
24 says don't worry about it. Arkansas's going to take

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1 care of it. So I'm like okay.

2 Q Take care of the transfer or take care of
3 what?

4 A The fact that I hadn't seen them yet. The
5 fact that I hadn't responded to the phone call when
6 they talked to my sister. I never talked to them
7 directly until then. So I was trying to resolve it.
8 I had my money order receipts from my monthly
9 supervision fees. I did not keep a copy of my
10 written reports, I just sent them in. One night,
11 I'm trying to give you the good date. I guess it
12 was November 31st, something like that, I left work
13 but I had to drop the payroll off to one of the
14 employees. So I did that and that was right around
15 where the Huntingdon Park is.

16 Q I'm sorry, where were you working at the
17 time?

18 A AM Painting.

19 Q What were you doing there?

20 A I was a manager, like the office, you
21 know, did the estimator, like that. So I dropped
22 the pay off to the woman and I got back in my car.
23 And it was an old car, so when you turn it on the
24 lights don't come on automatically. And I had

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1 forgotten to turn on my lights, so when I turned
2 onto Huntingdon Park Avenue the police pulled me
3 over, because I didn't have my lights on. And when
4 they ran the check I had a warrant from Arkansas,
5 which I wasn't aware of. So they arrested me and
6 then took me to CFCF. So that's what gets us to the
7 extradition hearing at CFCF.

8 Q When you were sentenced I guess there was
9 some kind of agreement that you could -- kind of a
10 non-reporting probation where you could write to
11 them and send money?

12 A Right, until Philadelphia officially
13 assumed the case. Yes.

14 Q Okay. So at the time you were pulled over
15 you're not aware that there is any problem in
16 Arkansas?

17 A No.

18 Q Then so you said November 31st.
19 November 29th I have was your arrest date.

20 A Okay.

21 Q So until December 11th, which was the date
22 of your bench warrant hearing, right?

23 A Yes, exactly.

24 Q Any problems between November 29th, or

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1 whatever time or day it was that you actually got to
2 CFCF, any problems between the time when you arrived
3 at CFCF and December 11th regarding Officer Lynch or
4 Officer Milton?

5 A No.

6 Q Any other problems while you were in
7 custody at CFCF?

8 A No.

9 Q All right. Let's go to December 11th.
10 Tell me about what happened.

11 A Well, there was another problem. I never
12 complained to the guards about it, but what happened
13 was they were doing three people in the cell. This
14 is the orientation housing unit, so it's not run
15 like -- it's more strict and there is less -- I
16 don't know how to put it -- exercise time or free
17 time and access to things like hot water to make
18 soup and stuff like that. It's much more
19 restrictive than general population. And there was
20 three people in the cell, me and another guy, Peter
21 was his name, and we were about the same age, so in
22 our -- he was maybe late 50s early 60s.

23 What happened was, they placed a guy
24 who was probably about 26 or 27, probably weighed

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1 close to 200 pounds, and he was, and you're going to
2 ask me how I know this, but he was an unmedicated
3 schizophrenic, paranoid schizophrenic, and he would
4 threaten us. It was to the point where Peter, like
5 I said, he was my age, he was taller but very thin,
6 and he would threaten us. We had -- you guys
7 wouldn't understand this, but we had to sleep with
8 some kind of ink pen or something, because we didn't
9 know at what point he would be violent. And he had
10 delusions of being God. He would take our food.
11 Like a lot of the meals are just served through the
12 door, right? And he would just snatch it all up.
13 So it's just bologna sandwiches and oranges, so
14 you're not going to risk your life for that, but at
15 the same time you need to eat.

16 Q Right. You're hungry.

17 A So we complained to the guards on three
18 occasions. Then finally on the third day, after
19 several incidents, at least two if not three
20 incidents with this guy, Peter and I refused to go
21 back into the cell after exercise period or whenever
22 something was going on. We were out and then we had
23 to go back in, and we was like, "Unless you do
24 something about this guy we are not going back in."

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1 He was there for beating up his mother badly, you
2 know, so we are like, what are we going to do, two
3 old guys.

4 So they told us they would write us
5 up if we didn't go back in. So we are not looking
6 for any trouble, really, so we go back in, but again
7 we say, "You got to do something about this guy."
8 And the person we are talking to -- when the regular
9 block officer, I don't know who it was, it could
10 have been Sam or, see, I can't remember what time it
11 was. It could have been Melton. I'm not sure. It
12 could have been Melton and another guy named
13 Coleman, I think. Anyway, when we refused to go
14 back in they're threatening us. We are like, "How
15 are you threatening us? You see this guy. You see
16 you already had problems with him." So we go back
17 in. But I guess he was the sergeant was on the
18 housing unit at that time. They called him when we
19 wouldn't go back in the cell. And we explained the
20 problem, that we feel in danger.

21 In fact, they came and got the guy
22 out the cell. He refused to go for a mental health
23 evaluation, and as you know, you can refuse to go.
24 He was obviously mentally ill, but once he refused

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1 to go for the evaluation there was nothing they
2 could do. So anyway, when the sergeant comes on the
3 block he says, "Guys, you got to go back in there."
4 And we said, "Look, this guy, we feel in danger."
5 He said, "But you don't want to get in trouble." I
6 said, "No, we don't want to get in trouble, but you
7 know." He said, "Just go back in and let me look
8 into it." So we go back into the cell. When the
9 door shuts he stands just to the left of the cell
10 door.

11 Q He being the third --

12 A The sergeant. He's outside the cell.
13 Because no one, I don't think they believed what we
14 were saying. So he stood outside the door but you
15 couldn't see him, but you could hear. And he
16 listened to this guy threatening us, to kill us and
17 everything. You know, we are like what are we going
18 to have to do here? Then he came in, and I don't
19 know his name, I'm sorry, and he opened the door and
20 took the guy out. And that was the only event, you
21 know.

22 Q Okay. Now, getting to December 11th, I
23 want to start with the video conference. Tell me
24 about that entire process like start to finish.

Page 20

1 Tell me what happens.

2 A Okay. So start to finish, I would have to
3 start with a public defender maybe a week ahead of
4 time came up and asked me was I going to waive
5 extradition.

6 Q Do you remember that public defender's
7 name?

8 A It was a paralegal from the public
9 defender's, and I don't remember her name. And I
10 was explaining to her that -- well, the background
11 is at that time my father was terminally ill, so my
12 focus is really trying to resolve this matter as
13 quickly as possible, because my father could die at
14 any time. So I didn't want to be locked up. I
15 wanted to be there to be with him. I didn't know --
16 when I talked with her my inclination was to waive
17 the extradition so I could go to Arkansas, get this
18 thing resolved and get back to Philadelphia before
19 my father passed. That was my inclination. But
20 when I talked to her -- so when I talked to her I
21 said I'm inclined to waive extradition just to
22 expedite things.

23 But after talking to her I learned
24 about the governor's warrant thing, where if you

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1 don't waive extradition then the demanding state
2 would have to issue a governor's warrant to bring
3 you back. And I'm thinking, this is a nonviolent, I
4 already had probation. It's a probation violation
5 that could be resolved without the extradition and
6 all this if I have an opportunity to explain. And I
7 didn't. I felt there was some question as to
8 whether they would issue a governor's warrant for a
9 probation violation for a nonviolent crime. I don't
10 know if they would or would not, but this was the
11 question in my mind. So, okay, I'm thinking about
12 that, so then they call me for the hearing.

13 Q Let me just ask a couple more questions
14 about when you talked to the woman from the
15 defender's office. Did she explain to you what it
16 meant to waive extradition?

17 A Yes.

18 Q And essentially she explained that that
19 would mean you would go to Arkansas?

20 A Yes.

21 Q And did she explain to you another option,
22 which would be don't waive extradition and see
23 whether or not they issue a governor's warrant?

24 A No, she didn't explain that. I learned

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1 that, you know, in jail, people, jailhouse lawyers,
2 whatever, whatever, the law library. That's how I
3 learned about the governor's warrant.

4 Q How long did you meet with her when you
5 talked to her about a week before?

6 A Ten minutes maybe.

7 Q During that time were you asking her
8 questions and was she answering you?

9 A Yeah.

10 Q Was she talking to other --

11 A No. It was just she and I, if that's what
12 you're getting at.

13 Q Yes. So it was a one on one for about ten
14 minutes?

15 A One on one privileged communication. And
16 that was like a week before the hearing.

17 Q Okay.

18 A Now, they come get me for the hearing.
19 When I say come get me, the guy walks around and
20 collects everybody from the different housing units
21 that's going to have hearings at that time. So I
22 guess, I don't know exactly how many of us there
23 were, but my best recollection is it was either four
24 or five, me plus four other people or three other

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1 people. We were taken to the hearing room.

2 Q And where is that in the prison, do you
3 know?

4 A Well, I'm going to tell you, they don't
5 let you get around so you don't get a good sense of
6 the layout. But I can say this. It's down the hall
7 from center control. That's the best I could say.

8 Q Okay.

9 A That might only be center control for that
10 wing, you know.

11 Q Okay.

12 A Which makes perfectly good sense, so you
13 don't have a good sense of where things are. But
14 anyway, he collects us all. We all go into the room
15 at the same time. We are seated on a bench, Officer
16 Lynch is in the room.

17 Q Is that the first time you see Officer
18 Lynch?

19 A Yes, that's my first encounter with her.

20 Q She didn't come and collect you or
21 anything?

22 A No. That's someone else. My only
23 encounter with her was inside the hearing room. I
24 had never even seen her other than that.

Page 24

1 Q Okay.

2 A So we go in, everybody sits down and I'm
3 trying to keep the sequence right. Once we sit down
4 she verifies who we are off a list, explains that we
5 are going to have a hearing on video, shows us where
6 the video thing is, and then she says, "I'm going to
7 call" -- there is a phone there. She says, "I'm
8 going to call the public defender. When I put you
9 on the phone do not discuss your case with him, only
10 answer yes to the questions he asks you." Okay. So
11 all of us followed that order from her and the
12 public defender, I can't remember the questions he
13 asked, but they were more like identification
14 questions than anything else. And she also
15 instructed us not to address the camera, the video,
16 unless they address us. So at the time they did the
17 colloquy about waiving extradition.

18 Q Who did that, do you remember?

19 A I think it was the lawyer asking the
20 questions. I don't think it was the judge asking
21 questions, I think it was the lawyer asking -- this
22 is what I can remember -- the lawyer asking the
23 questions. And once that colloquy was done she,
24 Officer Lynch, gave you a paper to sign.

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1 Q So let me back up. When you are there is
2 four to five people in the room?

3 A Yes.

4 Q Is everybody seeing the same thing? Does
5 that make sense?

6 A Yes. Everybody is present and aware of --
7 well, once your hearing is done they send you out.

8 Q Okay.

9 A But if there are other people whose
10 hearings have not occurred yet then they're still
11 there. At the time when you speak to the public
12 defender everybody is there.

13 Q Okay. And that's on a phone, not on a
14 video?

15 A That's on the phone. Okay.

16 Q And when we are talking about a video, is
17 it like a TV?

18 A Yeah, it's like a TV.

19 Q And you can see into a courtroom?

20 A Yeah. You can see the judge, you can see
21 your lawyer and I guess the prosecutor.

22 Q So when you're looking --

23 A It's a small -- it's not like TV at home.
24 It's a small box like thing (indicating).

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1 Q Is it your understanding that they can see
2 you too?

3 A Yes.

4 Q When they're asking you questions
5 whichever it is, the lawyer, the prosecutor or the
6 judge or whoever --

7 A The prosecutor never asked any questions
8 of me in my case. I don't know the situation with
9 the other people.

10 Q But when they were asking you questions
11 they could hear your response?

12 A Yes, they could.

13 Q And the judge could hear you?

14 A Yes.

15 Q Okay. So you remember going through that
16 colloquy and answering all the questions truthfully,
17 I'm sure?

18 A Yeah, I did.

19 Q Was one of the questions whether or not
20 you had talked to your lawyer, do you remember?

21 A I don't recall.

22 Q And do you remember if one of the
23 questions was whether or not you were satisfied with
24 your lawyer?

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1 A Probably was. I mean colloquy, it
2 probably was.

3 Q At any point during that colloquy did you
4 tell either the judge or your lawyer, "Well, I
5 really need an opportunity to talk to my lawyer"?

6 A No, because I was instructed not to do
7 that.

8 Q By Officer Lynch?

9 A By Officer Lynch.

10 Q Do you remember how long you were
11 answering those questions or were kind of
12 interacting with the people in the courtroom?

13 A Four minutes.

14 Q During that time did the judge talk to you
15 at all?

16 A Not that I recall.

17 Q Do you remember what the outcome was of
18 that hearing?

19 A Yeah. I waived -- well, what happened was
20 I did the colloquy, Officer Lynch brought me a paper
21 to sign, which was the waiver. You have to have the
22 signature for the waiver. At that time I said,
23 "Well, look -- even before the hearing started I
24 said, "Could I have a copy of the interstate compact

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1 agreement", because I haven't been able to see one.
2 I've just been hearing about this governor's warrant
3 thing. I said, "I'd like to see a copy of the
4 interstate compact agreement." And she said, "I'll
5 get that for you. You'll get that after the
6 hearing." So then after the colloquy with the court
7 she brought the paper to sign and I said, "I would
8 still like a copy of the interstate compact
9 agreement," and she said, "I'll give it to you after
10 you sign this." So I mean I signed it in
11 anticipation of receiving a copy of the interstate
12 compact agreement, which I never did.

13 Q Okay.

14 A And my hearing was one of either the first
15 or second one. It might have been the first. So
16 after that point I was dismissed or however you want
17 to put it.

18 Q Taken back?

19 A Nobody takes you back. They only bring
20 you and you just go back on your own.

21 Q So what happened? You know, you waived
22 extradition ultimately?

23 A Right.

24 Q What happened as a result of that?

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1 A As a result of that Arkansas was going to
2 come get me. They have 30 days to come get you.
3 And in the meantime I had been moved from the
4 quarantine housing to general population. I forget,
5 because it was on -- so the first housing unit they
6 put me on, and I don't know what it was, I want to
7 say D, but I'm not sure. So I'm there, the 30 days
8 is running, I'm thinking -- I'm anticipating the
9 people from Arkansas coming, you know. I want them
10 to come as quickly as possible so I could get down
11 there and try to resolve this and get back to
12 Philadelphia.

13 In the meantime, they took me, they
14 came and got me at 3 o'clock on a Friday morning and
15 they put me in a holding cell. The difference
16 between a holding cell and a regular cell is there
17 is no bed. It's a bench and a toilet. And they put
18 me in a holding cell in the -- what do they call it?
19 Some kind of port. It's like where you are just
20 before they transport you somewhere, whether it be
21 to court or whatever. And it's right at the outside
22 and so it's not heated.

23 Q What time of year was it, like January?

24 A This was January. It was prior to

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1 January 11th, but like a day before or something --
 2 no. No, not the first time. The first time was
 3 almost two weeks before January 11th. So they took
 4 me down there Friday at 3:00 in the morning and I
 5 stayed there with no hot meals. One correctional
 6 officer gave me a blanket and they gave me bologna
 7 sandwiches and a carton -- no. I don't eat -- one
 8 cheese sandwich. I don't eat the meat, so one
 9 cheese sandwich and a little carton of iced tea.
 10 They gave me that two or three times and I was there
 11 from 3:00 a.m. on Friday till 5 o'clock the
 12 following Sunday.

13 Q Five a.m. or p.m.?

14 A P.m. When they took me back and put me on
 15 another housing unit. And then --

16 Q Did they tell you what you were doing in
 17 the holding cell? Did they think you were going to
 18 Arkansas?

19 A Yeah, they said Arkansas was coming to get
 20 me. And the thing that I'm asking, after the first
 21 day, well? You know, because it's cold.

22 Q Right.

23 A I'm not getting any hot food and, you
 24 know, this doesn't seem right. Why can't you just

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1 take me back to where I was and when they get here,
 2 or when they call and say they're a hundred miles
 3 out, you know, come get me? What's the problem with
 4 that? So I ended up staying there through that
 5 weekend. By Sunday at 5:00 p.m. the supervisor of
 6 the -- I don't know if it's called -- I don't know
 7 what it's called, transportation unit or whatever,
 8 she came in and she was pissed off. She's like,
 9 "This guy, you left this guy here all weekend?" And
 10 she took me immediately back to the next housing
 11 unit.

12 Now, in my initial complaint I think
 13 I may have included that. That's not a claim I'm
 14 going to pursue, even though I think it was and
 15 continue to think it was legitimate. It's a
 16 legitimate complaint. I think they could have done
 17 better.

18 Q So take me to the next time. You said
 19 that was two weeks before January 11th?

20 A Right. Then when I did leave they brought
 21 me down again early in the morning and the guys from
 22 Arkansas -- Lonoke is extremely small, so the
 23 Sheriff's department, there might be 10 people. So
 24 in the two weeks I was down there initially you get

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1 to know them. So one of them came up, and you're
 2 not going to believe this. One of them that came to
 3 get me, his mother, who is not affiliated with the
 4 Sheriff's department, was his riding partner. So
 5 they came and got me. And he's a decent guy, this
 6 guy. They call him Bear. And we drove back to
 7 Arkansas.

8 Q Do you remember what day you went to
 9 Arkansas?

10 A We didn't stop overnight. We drove
 11 straight through. And we left on exactly the 30th
 12 day, so that would have been I guess January 11th,
 13 and we arrived in Arkansas at night on the 12th I
 14 want to say.

15 Q Okay. Then what happened when you got to
 16 Arkansas?

17 A When I got to Arkansas I was put back in
 18 Lonoke County Jail. My hearing was scheduled for --
 19 I think my first hearing I think was scheduled --
 20 oh, first I had a funny hearing and I guess this is
 21 where there was no one in the courtroom but me, the
 22 judge and the court crier. I can't tell you what
 23 kind of hearing it was, but what it resulted in is I
 24 guess just affirming that I was back. I don't know.

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1 I can't explain it to you, what that was about. So
 2 I go to -- the first hearing I go to is scheduled
 3 for April 14th or 19th, something like that. In the
 4 meantime, I was trying to get the records from the
 5 probation people so I'd have proof that listed my
 6 payments. And I didn't have the reporting things,
 7 but, you know, my thinking was if I'm paying the
 8 payments you got to understand I was sending the
 9 sheets. Apparently I thought everything went to one
 10 place. So on some occasions I sent my sheets where
 11 the payments went along with the payment. And those
 12 reporting sheets weren't forwarded to the probation
 13 people.

14 Q Is that why they thought you --

15 A Similarly -- I'm sorry.

16 Q No. Go ahead.

17 A Similarly, sometimes I would send the
 18 reporting sheet and the money order to the reporting
 19 people and they would hold the money orders. But
 20 anyway, I was on probation in February. I was
 21 picked up in November for it says nine months. The
 22 accounting sheets that they had for the payments had
 23 all but three payments. The probation people had
 24 the money orders for those three payments. I was

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1 able to get the documents from the financial
2 accounting people.

3 Q Got it.

4 A So I go to court and Arkansas's not quite
5 like Philadelphia. I go to court and they take
6 everybody at one time into the courtroom and you sit
7 in the juror's box. And then the prosecutor comes
8 over and offers you deals. When they first came to
9 me, when I go to court I have my papers but I was
10 nervous and I forgot them. I'm still at the jail
11 and the jail and the court are maybe 20 minutes
12 away. So I'm in the holding part of the county jail
13 and I tell the guard -- we haven't left yet, because
14 they give you breakfast before you leave. I said,
15 "Wait. I forgot" -- and the jail is small, I said,
16 "I forgot my legal papers. I need to go get them.
17 Would you let me walk back and get them?" And of
18 course they said, "No, we don't have time for that."
19 I'm like okay.

20 But in the meantime I had sent a copy
21 to the clerk of courts office at the court house. I
22 filed some kind of petition for something, so they
23 had a copy of the accounting part. So when I go
24 into court the prosecutor first comes over and says,

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1 the prosecutor. He's not talking about giving the
2 money to him. He said, "If you pay a \$1,000 fine
3 and you can get it here before court closes I'll
4 reinstate your probation, but I'm going to add two
5 years to it." I said, "No, I'm not going to do
6 that." So he says, "Well, you want a hearing.
7 Well, you're going to have to have a hearing." I
8 said, "Okay. That's fine."

9 So later that afternoon around 3
10 o'clock, and I had a public defender there and I
11 told him my records -- I asked him -- now, the clerk
12 of courts office is 40 feet from the courtroom, so I
13 ask him -- I tell him, "Look, I filed a petition
14 there that has the accounting sheets. Could you get
15 that so I have it for the hearing so I can show the
16 judge I did, I was being compliant, and that this
17 was basically a misunderstanding on my part?" I
18 never moved, I never changed my address, I never
19 changed my phone number and I had even called them
20 several times and left messages for the person who
21 was supposed to be my probation. So I figured if I
22 could get the accounting stuff I could demonstrate
23 to the judge that I was trying to be compliant and I
24 wasn't hiding or running from anything. But he

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1 "Look, Frank, we understand what happened. We
2 talked to the probation people. We are going to let
3 you go, but we can't let you go" and this is on a
4 Friday, "But we can't let you go until Tuesday."
5 It's clear that this was --

6 Q Was this the April hearing?

7 A This is the April. They said, "We can't
8 let you go until Tuesday." I didn't understand any
9 of that, but I said, "Of course. Okay." Then they
10 bring me back to court on that Tuesday and they say,
11 "Frank, Philadelphia probation did talk to you. We
12 got a report from the probation assignment in
13 Philadelphia and they're saying they did contact you
14 and you didn't come in." And I said, "No, they
15 contacted my sister who lived with me, but I wasn't
16 aware of that until a month or so later. And when I
17 knew they were trying to reach me I reached out to
18 them." So he says -- he goes away for a minute and
19 comes back and says, "Okay. This is what I'm going
20 to do." My original probation was an eight year
21 probation. He said, "This is what I'm going to do.
22 I'm going to" -- I guess this was around the
23 close -- maybe 1 o'clock in the afternoon. He says,
24 "If you give me \$1,000 this afternoon" -- this is

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1 wouldn't go get it for me.

2 Then we have the hearing that
3 afternoon and at the hearing the probation officer
4 comes. He has the three money orders that I sent to
5 them mistakenly, he had none of the reports I had
6 sent and he recommended that I get sentenced to
7 10 -- wait, 10 to 20 years in jail. I said, oh,
8 okay. And the public defender says, "Your Honor, I
9 think" -- despite the fact he didn't go get the
10 records he said, "Your Honor, that seems harsh
11 for -- the prosecutor's recommendation seems harsh
12 for what is going on here." So then the judge says,
13 and I explained to him about the record, the
14 accounting record. He says okay. I'll tell you who
15 the judge was. You'll be surprised. But anyway, he
16 says to the prosecutor, "That seems too harsh." So
17 he sentenced me to five years in prison. The
18 difference is two months equals a year in Arkansas.
19 So you get good time, this, that, this, that. So
20 for every two months you get credit for one year.

21 Q That's a pretty good deal.

22 A I panicked when they said five years and
23 the sheriff who knew me said, "Frank, Frank, just
24 relax. It's not what you think." Because I'm

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1 thinking, five years? What the hell? You know,
2 pardon me. So he says, "Just stay calm, Frank.
3 It's not what you think." Then he explains the two
4 months. So fundamentally you're going to be out in
5 ten months or less. Still I'm disturbed, because my
6 father's terminally ill.

7 So after that I called home, I told
8 them that I would be incarcerated for ten months.
9 The house, my employer tried to keep, in fact, was
10 able to keep my house. He paid the rent on my house
11 and the utilities up until -- for almost a year, for
12 almost a year. But then he just couldn't do it
13 anymore.

14 Q You weren't back in a year?

15 A Well, the whole time waiting to go to
16 trial and then, so it was for almost a year.

17 Q Okay. So he started paying I guess in
18 December of 2012?

19 A Yeah. When I got arrested he started
20 paying and paid up until --

21 Q About December 2013?

22 A Something like that.

23 Q Now, just going back, are you a little bit
24 familiar with the courts in Philadelphia?

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1 talked to your lawyer about, I guess?

2 A Okay. Can I clarify my complaint too, as
3 well?

4 Q Yes, however you want to answer that
5 question.

6 A My complaint is that I didn't get to talk
7 to my lawyer in a confidential environment where he
8 and I could just talk. The other part was when
9 you're an inmate you can't, without repercussions,
10 refuse an instruction from a correction officer. So
11 I had -- under that I did not, as I was instructed,
12 not discuss my case on the phone the one opportunity
13 I had to talk with the lawyer on the phone, and it
14 was not private, it was not confidential.

15 Q So because you had to follow the
16 instructions, as you say, from Officer Lynch, to
17 just answer yes?

18 A Yes.

19 Q You couldn't have a real conversation with
20 your lawyer?

21 A Plus, other people were in the room.

22 Q You were just on a phone, right?

23 A But I have to tell my part.

24 Q Right. But no one could hear what your

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1 A Yes.

2 Q You're familiar with the idea that you can
3 always postpone a hearing or get more information or
4 anything like that?

5 A Yeah.

6 Q And so had you postponed your hearing on
7 December 11th maybe to get more information about
8 waiving extradition or not, you still would have
9 been in custody that entire time, right?

10 A If I asked to postpone my hearing.

11 Q Yes.

12 A On December 11th at CFCF.

13 Q Yep.

14 A In order to do that I would have had to,
15 under the interstate compact agreement, I would have
16 had to waive extradition.

17 Q Was that your understanding, that you
18 couldn't ask for more time to consider what you
19 wanted to do?

20 A Right.

21 Q Now, when you were transported to -- well,
22 strike that. When you are thinking about this and
23 your complaint is that you didn't get to talk to
24 your lawyer, what would you have liked to have

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1 lawyer was saying?

2 A No, they couldn't hear what the lawyer was
3 saying.

4 Q So in part you could have had a more
5 detailed conversation if you hadn't been given that
6 instruction?

7 A No, I don't believe so.

8 Q What would have prevented you from having
9 a more thorough conversation?

10 A If it had been private, if I had had
11 privacy.

12 Q But you understand being in custody that
13 that was just the way that the video hearing room
14 was conducted?

15 A Well, I understand that's the way the
16 video hearing room was conducted at that time, at
17 the time of my hearing, but I don't understand in
18 that -- I don't understand why, since it is a
19 hearing where there is liberty interest, why I
20 couldn't talk to the lawyer privately.

21 Q Privately meaning no one else in the room?

22 A No one else in the room, privileged
23 conversation between the lawyer and I. I did not
24 understand that. And I felt, my feeling was, that

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1 because the correctional officer is there present
2 and giving instructions, I think it's coercive.

3 Q So you think that you should be able to
4 talk to the lawyer on the phone without any other
5 persons or CO present?

6 A Absolutely.

7 Q What about when you had that conversation
8 a week prior? Was that more what you had
9 envisioned?

10 A That was an absolutely constitutional
11 privileged conversation with your lawyer.

12 Q So when you had that conversation that was
13 okay, but the conversation that you were able to
14 have with your lawyer on the phone wasn't okay?

15 A Was not okay.

16 Q And having, you know, being familiar with
17 Philadelphia, sometimes you don't get to talk to
18 your lawyer until you're in court, until you're
19 sitting right next to them, right?

20 A Uh-huh.

21 Q And there are a lot of other people
22 around?

23 A Uh-huh.

24 Q Who would be able to hear that

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1 conversation, right?

2 A Well, under those circumstances, being
3 familiar with Philadelphia, I would take the lawyer
4 and go to the room, the privilege room right behind
5 the courtroom. And I have to say that the
6 courtrooms in the public courtroom, one that's not
7 inside the prison, there is no coercion. You feel
8 free to say to your lawyer, "Look, we need a recess.
9 We need a minute to talk." That sense, that
10 noncoercive environment, does not exist in the
11 hearing room as the hearings were conducted in my
12 case on December 11th, 2012.

13 Q So would it be fair to say that your
14 complaint is kind of twofold? One, you were given
15 instructions that you only could say yes to your
16 lawyer?

17 A Yes.

18 Q But even if you hadn't been given that
19 instruction you still weren't free to have a
20 conversation with your lawyer?

21 A Right. I was not free to have privileged
22 communication.

23 Q So kind of like if you take Officer
24 Lynch's telling you to say yes to everything, if you

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1 take that out of the equation, you still don't think
2 that's right?

3 A Absolutely not right.

4 Q Even if you had been able to talk to your
5 lawyer, even if you had said, "Well, let's not waive
6 extradition. Let's take our chances and see if they
7 issue a governor's warrant", say that path was taken
8 and say they did issue a governor's warrant and
9 everything panned out just the same way, because
10 that could have happened.

11 A And so equally possible was the governor
12 may not have issued the governor's warrant, in which
13 case I would have been released. It could have gone
14 either way. I'm not saying that my question's about
15 the governor's warrant, or whether the governor
16 would issue a warrant. I didn't have any guarantee
17 that the governor would not issue a warrant. It was
18 just my thinking and something I did want to discuss
19 with my lawyer, that given the nature of the
20 underlying case and that it was a nonviolent case,
21 and really the extradition hearing had nothing to do
22 with the case, it was a probation violation for a
23 nonviolent crime, and I'm almost 2000 miles away. I
24 thought there was a strong possibility, my belief,

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1 ignorant as it may have been, that the governor
2 would not issue a warrant. Arkansas is a poor
3 state. I didn't hurt anybody, I didn't, you know,
4 molest a lot of children or anything. I was driving
5 through, passing through, with some marijuana. My
6 own belief is that there is a whole lot of crime in
7 Arkansas and a whole lot of people skip. And I
8 don't know that I was among -- rose to the level
9 where a governor's warrant would be issued,
10 particularly given the clerical or the
11 misunderstanding. I had demonstrated some level of
12 compliance and --

13 Q Right. I got you. But then we kind of
14 saw what happened in Arkansas, right? Because they
15 clearly didn't think you were in compliance enough.

16 A Yeah. Yeah, sure.

17 Q So --

18 A But I didn't know that then. What I
19 believed on 12-11 was I didn't believe, and I still
20 don't believe, that the governor of Arkansas at that
21 time would have issued a governor's warrant for a
22 probation violation for a nonviolent crime. I just
23 don't believe it.

24 Q Let's say that --

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1 A Now, I don't have any information. I'm
2 trying to find out, but that information is hard to
3 get.

4 Q Let's say the governor did issue the
5 warrant and kind of what happened is exactly what
6 would have happened if you had taken the different
7 route. My real question, though, what I'm really
8 trying to get at is, what damage was done? What
9 harm was there to you when you didn't have the
10 option to talk to your lawyer? Because it seems
11 you're very reasonable and you understand a lot of
12 moving parts. So I think that even you would agree
13 like this happened in Arkansas, this is how they saw
14 it, this is what they decided. They being the judge
15 and all that. And so you understand that that was a
16 distinct possibility. I'm just trying to understand
17 what was the harm that happened to you because you
18 didn't get the option to or you didn't feel like you
19 could participate with your lawyer?

20 A Okay. The harm that was done to me, first
21 of all, I'm an American citizen and the protection
22 of the US Constitution and the Bill Of Rights
23 extends to me as a pretrial detainee as well as
24 anyone else. And I think particularly for the

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1 government not to protect the constitutional rights
2 of people who are in trouble, who are really the,
3 not in my case necessarily, but in general, to not
4 have a more fervent commitment to the protection of
5 the constitutional rights of the least educated,
6 most impoverished segments of our society is wrong.
7 The fact that it happened to me, I'm an American
8 citizen, I had a right to talk to my lawyer, I had a
9 right to participate in my own defense, and there is
10 the harm. And it's a significant harm.

11 Was I bludgeoned in the head? No.
12 Could I guarantee that the outcome in Arkansas would
13 have been different? Could I have foreseen that or
14 what they would have been? No, I can't see into the
15 future. But what I could see was a blatant
16 disregard for my constitutional rights at that
17 hearing the way it was conducted. And moreover,
18 just like I had the meeting with the paralegal, and
19 CFCF provides attorney visits, hundreds of them if
20 not every day, every week -- that's my phone
21 vibrating. So they're aware that a person has a
22 constitutional right to confidential unfettered
23 communication with their lawyer. The fact that that
24 was not incorporated into the hearing process for

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1 these bench warrant hearings, some probation
2 violation hearings, hurts me. It hurts me as a
3 citizen and it hurts me as an individual, because my
4 constitutional rights are or should be as valued as
5 the judge's, as the Sheriff's, as any other citizen
6 in America. So, yeah, I feel I was done great harm.

7 And in fact, during the course of
8 that hearing I felt like I was being treated like a
9 slave. I had no right to say what I wanted to say,
10 I was prevented from that by not having the ability
11 to have privileged unfettered communications with my
12 lawyer by the directions and instructions given by
13 Officer Lynch, you know, and that's how I feel that
14 I was harmed.

15 Q Okay. Now, after the hearing on
16 December 11th, well, when you met with the
17 paralegal, did she give you a card or any
18 information about contacting the public defender?

19 A I don't believe she gave me anything, no.

20 Q At any point did you receive any
21 information about how you could contact the public
22 defender's office?

23 A No. But I mean, that's not -- I'm aware
24 of the public defender.

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1 Q People talk about it and you could have
2 gotten the information for the defender's office if
3 you wanted it?

4 A Yeah.

5 Q At any point did you try to call after
6 your hearing and try and talk with anyone to see if
7 you could appeal or readdress the judge?

8 A I filed a grievance.

9 Q Who did you file that with?

10 A With CFCF. I told them I thought my
11 constitutional rights were violated and I complained
12 about Officer Lynch's instructions. And so that's
13 what I did. That's the appropriate -- look, that's
14 the appropriate next step, so that is what I did.
15 Shortly after that I was gone. I was in Arkansas.

16 Q Okay. Did you, you might have, did you
17 give us a copy of your grievance? Did you have a
18 copy of that?

19 A It was a copy of it in the initial
20 complaint.

21 Q And other than the one grievance that you
22 filed did you file anything else or follow up or
23 anything like that?

24 A Yeah. I filed a civil rights -- I mean

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1 the 1983 complaint. There was nothing else I could
2 do. I'm in Arkansas.

3 Q Okay. But I mean in the 30 days you were
4 in CFCF.

5 A Well, it took me that long to figure out
6 what I wanted to say in the grievance.

7 Q Okay. So let's move on to the next.
8 December 11th you have the video hearing. Is that
9 in the morning, the video hearing?

10 A Yes. I believe I was in the first group.

11 Q Had you ever been a part of a video
12 conference before or was that your first time?

13 A My first time.

14 Q Then what happens with Officer Melton?
15 When does that take place?

16 A Okay. Officer Melton, this is when I'm
17 still on the more restricted housing.

18 Q This is the same day, right?

19 A Same day, yeah. It was later in the same
20 day.

21 Q Okay.

22 A So the day room they had opened up. Day
23 room is like an exercise period. You play cards,
24 checkers, watch TV, whatever. But when you come out

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1 that as unusual that she did not respond. I know
2 she heard me, because she's looking directly at me.
3 We are less than two feet apart. So then I go back
4 to the cell and at that time someone who I talked
5 with, Luciano, his first name is Raphael, Raphael
6 Luciano.

7 Q Is that a CO or another inmate?

8 A It's another inmate. Because he sees I'm
9 like upset he's like, "Frank, what's wrong?" I
10 said, "I have to go to the bathroom and she wouldn't
11 open the door." At that time I urinated myself, you
12 know, and maybe five to ten minutes after that she
13 went to make her tour and opened the cell and let me
14 in.

15 Q Was there anybody else with Officer Melton
16 in the pod?

17 A No. I'm sorry, I don't think. I think
18 the other guard was at dinner or something.

19 Q So it was just Officer Melton at the
20 control center?

21 A At the control center.

22 Q At that point had you been on that pod for
23 a couple weeks or a couple days?

24 A Yeah, I had been there for a couple of

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1 for day room the cell you're in is locked. The
2 cells are always locked whether you're in them or
3 not. So I'm in the day room playing cards or
4 something and I go to Officer Melton, who was at the
5 control desk, and I said, "Officer Melton, look, I'm
6 sorry. I'm 63 years old. I need to get into the
7 cell to go to the bathroom. I really don't have
8 bladder control and I'd appreciate getting into the
9 cell to go to the bathroom." She didn't speak, but
10 being a reason -- considering myself a reasonable
11 person I didn't think what I asked her was
12 unreasonable. So after I made my request I walked
13 to the cell. That was cell 16 and there is nothing,
14 no obstructions between where she sits at the
15 control desk and cell 16. Cell 16 is like where the
16 cells are it's like a horseshoe and cell 16 was at
17 the end of the horseshoe directly in line with the
18 vision of the control desk.

19 So I wait at the cell, my situation
20 becoming, you know, more critical. So I walk back
21 over and I said, "Officer Melton, I would really
22 appreciate it if you would open the cell so I could
23 go to the bathroom." She didn't respond. They
24 often don't respond to inmates, so I didn't take

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1 weeks.

2 Q Had you seen when you guys were in the day
3 room and were outside or kind of playing games would
4 you see other inmates come and go in and out of
5 their cells?

6 A Depending on who the officer was.

7 Q Did you have any experience with Officer
8 Melton?

9 A Me?

10 Q Yes. Did you see her working other days
11 before this incident?

12 A Oh yeah.

13 Q Did you know if she would let people go in
14 and out of their cells?

15 A Typically, no.

16 Q Were you guys instructed -- was everybody
17 instructed once you're in the day room you're in the
18 day room until everybody goes back in or how did
19 that work?

20 A Well, when the officers do their tour is
21 when you can get to go in and out. Generally that's
22 how it worked. If you were summoned by center
23 control or something of course you could come out or
24 you could go in and get something that you needed to

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1 take to them or whatever. But the general practice
2 was once you're out, you're out until an officer
3 makes their tour. That was the general practice.

4 Q How long would a tour be?

5 A It could be depending on the officer,
6 again. I would say generally maybe 30 or 40
7 minutes, maybe an hour.

8 Q Somewhere between 30 minutes and an hour?

9 A Yeah.

10 Q On that day do you remember the time
11 between the tours for Officer Melton? Was it still
12 in that general area of 30 minutes to an hour?

13 A Yeah, I would assume so. I couldn't -- I
14 can't swear by it.

15 Q Right. Has it ever been more than an
16 hour?

17 A I can't honestly say that I have observed
18 that, because I just really didn't pay that much
19 attention. You're just kind of aware of it.

20 Q Okay. So on this particular day tell me
21 if I'm describing this right. Officer Melton would
22 have let everybody come out into the day room, she
23 would have then gone to the control center?

24 A She would do that from the control center.

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1 stand by the door, they see you and they let you
2 out. But they locked the door immediately, you
3 know. No cells are left open at any time, even when
4 you're out or you're in.

5 Q Do you remember when you were allowed out
6 into the day room that day?

7 A I don't know. I would guess maybe 5:30 or
8 6 o'clock. 6:00 or 6:30, something like that.

9 Q And then you would be allowed to be in or
10 out until about 9:30?

11 A Yeah, about 9 o'clock.

12 Q I'm trying to picture how this would work.
13 So it's only when the correction officer does the
14 tour that you can come in or go out?

15 A Exactly.

16 Q Okay. Sorry. That took me a minute.

17 A That's okay. I want you to understand it.

18 Q So do you remember at what point, and this
19 is -- I don't know if you can remember this, at what
20 point in Officer Melton's tour you told her, "Could
21 you please open my cell? I really have to go to the
22 bathroom"?

23 A She wasn't on tour when I asked her. She
24 was sitting at the control desk.

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1 Q Oh, right.

2 A She would do that from the control center.
3 The control center has the capacity to open just the
4 top tier or just the bottom tier or individual
5 cells.

6 Q Okay. So on this day was everybody
7 allowed out or was it --

8 A I can't -- I think it was just the bottom.

9 Q So she lets the bottom -- everybody from
10 the bottom out and everybody comes into the day
11 room?

12 A Right.

13 Q Plays games or whatever?

14 A Right.

15 Q Then 30 minutes to an hour later she would
16 put -- everyone would go back in their cells?

17 A No. No. The exercise period would
18 usually be till like 9 o'clock maybe, 10 o'clock.
19 It was long. It would be at least two to three
20 hours, the exercise period.

21 Q But it was during the tours that you could
22 say, "I want to go back in"?

23 A You'd stand by your cell and they'd open
24 the door and let you back in. Or if you're in you'd

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1 Q Do you remember how soon after the last
2 tour it was that you told her, "I have to go into my
3 cell"?

4 A No.

5 Q So it could have been anywhere between
6 five minutes or an hour?

7 A Could have been two minutes. I have no
8 idea.

9 Q Okay. So when you asked her it would have
10 been a special request for you to be able to go into
11 your cell, because it wasn't normal for her to open
12 up cells unless she was on a tour?

13 A Yes. It would have been a special request
14 for her.

15 Q Got ya. Because everybody is different
16 and everybody --

17 A Everybody is different and everybody runs
18 their shift differently.

19 Q All right. Obviously I don't want to go
20 over the embarrassment of urinating on yourself in
21 front of -- how many people were there, how many
22 inmates?

23 A How many people were aware of it?

24 Q Yes.

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1 A Raphael, of course, he was there. I don't
2 know. I was embarrassed. As soon as I could get in
3 I went in, changed, wiped myself off and changed,
4 and I don't believe I came back out.

5 Q And when you --

6 A But the day room, the exercise room, like
7 I said, the cells are like a horseshoe and the
8 exercise room is contained within the borders of the
9 horseshoe. So people are out. I wasn't looking to
10 see who was looking necessarily at me. But my
11 embarrassment and humiliation is that, and I think
12 cruel and unusual punishment, is that I shouldn't
13 have to -- I mean as a human being if I tell you I
14 have to go to the bathroom I should have access to
15 the bathroom whenever I ask. And that just seems
16 right.

17 There are no bathrooms provided for
18 the day room, so it's not like here's the day room
19 and here's the toilet facility for the day room. So
20 when you're in the day room you can use those
21 facilities. It's not like that. There are no
22 facilities whatsoever except for in your cell. So
23 given that circumstance, if a person has to go to
24 the bathroom and it's a matter of the correctional

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1 officer pushing a button, then why can't you go to
2 the bathroom?

3 Q So how long would you estimate that you
4 stood outside of your cell --

5 A I would say.

6 Q -- after you urinated yourself?

7 A Maybe ten minutes, five to ten minutes.

8 Q Other than Raphael you're not sure who
9 else?

10 A Right.

11 Q Were you facing your cell, kind of
12 shielding with your back to the rest of the day
13 room?

14 A No. My back was not to the day room. I
15 was standing looking at Officer Melton. I was quite
16 pissed off.

17 Q So you stood for five to ten minutes
18 looking at Officer Melton?

19 A I was like, "How can you" -- it was
20 unbelievable to me, unbelievable to me.

21 Q Then you went inside after five to ten
22 minutes of standing there, changed?

23 A Right.

24 Q Then did you stay in there or did you come

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1 back out?

2 A I can't remember.

3 Q Did anybody ever say anything to you, any
4 other prisoners?

5 A Of course Raphael and I talked about it.
6 Let me say this. Because of my age and I guess
7 comportment no one would have said anything to me.
8 No one would have pointed and laughed and that kind
9 of high schoolish type thing. That would not have
10 happened. It doesn't mean that there weren't other
11 people aware of it, because it's not a big -- it's
12 not a huge space.

13 Q Let me just ask you. So having been in
14 custody before, doesn't it kind of make sense to you
15 that you can only come in and go out when the CO
16 says you can? So in this case CO Melton's tours
17 were between 30 minutes and an hour and you could
18 either come in or go out. Doesn't that make from a
19 safety standpoint make sense to you? So that people
20 can't be going in --

21 A Oh, absolutely. It makes perfect sense to
22 me.

23 Q So as a policy you don't disagree with
24 that. It's just in your specific scenario?

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1 A Well, as a policy I disagree with people
2 not having access to bathrooms, human beings not
3 having access to bathrooms.

4 Q Well, of course you had access --

5 A I didn't.

6 Q -- it just wasn't at the time you needed
7 it?

8 A Well, that's not access. Access is I have
9 access to my phone, because I can reach in my pocket
10 and get it.

11 Q You think only unfettered access is real
12 access?

13 A Absolutely. When it comes to that, going
14 to the bathroom, yes. I think a person should have
15 unfettered access to the toilets.

16 Q Couldn't you imagine a situation where
17 somebody would say that they have to go to the
18 bathroom and come back out and you know?

19 A Sure. Happens all the time.

20 Q Right.

21 A It's prison. It happens all the time. My
22 response to that would be the cell I was going in, I
23 mean there is a security issue that I understand
24 about opening people's cells from the control booth

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1 and you can't see what's going on in their cell.
 2 You don't know if someone is running in there to
 3 beat them up or somebody is going to go steal some
 4 of their stuff. I understand all that. The cell I
 5 was requesting to get in, she could see. It was
 6 maybe 60 feet from her. It was like looking down
 7 the hallway. The support beams in that area are
 8 maybe four by four, but there are none that
 9 obstructed her view of the cell I was requesting to
 10 go in. I understand the security issue.

11 And my thinking would be, well, if
 12 that's a security issue, put a bathroom in the day
 13 room. In fact, there were, I've been told, that the
 14 original plans did not include a bathroom for the
 15 day room, when in fact, and I can't prove this,
 16 because I can't get pictures of the prison or
 17 anything like that. I'm very restricted in what I'm
 18 able to get access to in order to defend my claim,
 19 but I know for a fact that there were two corner
 20 offices that had bathrooms in them that were
 21 supposed to serve as bathrooms for the day room and
 22 they were social workers offices. And when the
 23 social workers weren't there they would be bathroom
 24 access for the day room that were converted into

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1 cells due to overcrowding. I don't care about the
 2 overcrowding case, but I do care about it when it
 3 creates situations where you have 120 people out,
 4 locked out from access to their toilets and there is
 5 no toilet provided. And what Officer Melton said to
 6 me is I should pee in the shower like the other
 7 people do. Okay? So therein lies my problem.

8 Q There is a shower in the day room?

9 A There is showers on the second floor.
 10 There may be showers on the first floor, too. My
 11 recollection is not straight. But there's showers
 12 on the second floor, and what they are, they're
 13 stalls with a half door. Okay? And apparently
 14 because people are aware of the guards' reluctance
 15 to open the cells during day room and there is no
 16 bathroom provided for the day room, that people pee
 17 in the showers.

18 Q Okay.

19 A That presents a whole different issue,
 20 which I'm not concerned with. That presents a
 21 serious hygienic problem. I'm not bringing it out
 22 in my complaint, but I'm sure it will come out in
 23 testimony somewhere in the court. I understand to
 24 some degree what this whole situation is and what

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1 it's about and I understand that the City and City
 2 officials and everybody have to stridently defend
 3 their position. But I'm going to tell you quite
 4 frankly what goes on there is wrong and if there is
 5 no greater oversight, and I'm not just talking about
 6 the hearing, I'm not just talking about the day
 7 room, I'm talking about the culture of CFCF. I
 8 can't talk about anyplace else. The other times I
 9 was incarcerated in Philadelphia was at Holmesburg.
 10 That's how long ago it was, and I was a working
 11 defendant in the Jackson versus Hendricks case. Are
 12 you familiar with that?

13 Q No.

14 A That's the Federal case that closed down
 15 Holmesburg Prison because of the conditions and
 16 brutality. It took 20 years. You know David
 17 Rudovsky?

18 Q Yes.

19 A And Terry Lattenburg.

20 Q I know David. I don't know Terry.

21 A Elliot Platt and that group. So I worked
 22 with that group, so I know how things are supposed
 23 to be. When people commit crimes they should be
 24 locked up. I have no issue with that. The crimes I

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1 was found guilty of, you ask me I'm going to tell
 2 you. I was found guilty, I was locked up. I'm not
 3 mad about it. Nobody took advantage of me or abused
 4 me. I'm talking about the court system or, you
 5 know. But there is a culture in there where the
 6 guards feel it's their personal responsibility to
 7 punish each inmate, and it's not their job. And as
 8 a result of that culture there is a lot of things
 9 wrong. This has little or nothing to do with this,
 10 but if the city, not just Philadelphia but any city,
 11 is serious about reducing recidivism then you have
 12 to stop making people leave jails angry at society
 13 for things that they know were done wrong to them.
 14 They have paid their debt, they did their time or
 15 whatever, but by having the kind of conditions that
 16 exist now you're making people -- the system is
 17 making, and I'm talking about the City of
 18 Philadelphia, is making people worse. That aside.

19 Q That aside, I just want to ask you,
 20 because you have been incarcerated in other places.

21 A I have been.

22 Q Have you ever had an incident where you
 23 were humiliated in another scenario?

24 A Never.

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Q Any other incident where you felt like you didn't have the ability to talk to your lawyer?

A Never.

Q All right. We did talk a little bit about the grievance process and that you filed one grievance and it took a little while to figure out what you wanted to say.

A Yes.

Q Did you ever get anything back?

A No, they never sent me anything.

MS. DAVIS: I don't have any other questions for you, so we are all done.

(Witness excused.)

(Whereupon, the deposition concluded at 11:44 a.m.)

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CERTIFICATION

I, Karen A. Stevens, a Court Reporter and Notary Public, do hereby certify the foregoing to be a true and accurate transcript of the proceedings in this matter, as transcribed from the stenographic notes taken by me.

Karen A. Stevens
Karen A. Stevens
Court Reporter
Notary Public

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WITNESS: Franklyn Prillerman

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